# GOVERNMENT OF INDIA
# LAW AND JUSTICE
# LOK SABHA

STARRED QUESTION NO:515
ANSWERED ON:25.04.2003
PAUCITY OF LAWYERS IN PATENT LAWS
SHRINIWAS DADASAHEB PATIL

**Will the Minister of LAW AND JUSTICE be pleased to state:**

(a) Whether many Indian companies go to the US or Western Europe to get their innovations protected due to lack of trained patent lawyers; and

(b) if so, the remedial steps taken by the Government in this regard?

## Answer

MINISTER OF LAW AND JUSTICE AND COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY)

(a): According to the Bar Council of India, they do not have any information regarding paucity of lawyers in Patent Laws.It is not correct to say that due to lack of trained patent lawyers companies go to the US or Western Europe to get their innovations protected. In fact, the Patent rights are territorial in nature, that is, they are effective only in the country of grant. Applications for patents are made and pursued by inventors in different countries depending upon the commercial interest of applicants.

(b): The Patents Act, 1970, as amended by the Patents (Amendment) Act, 2002 also contains provisions for registration of persons qualified to function as patent agents. These are contained in Section 126 of the said Act, which is as follows:

`(1) A person shall be qualified to have his name entered in the register of patent agents if he fulfils the following conditions, namely:-

a. he is a citizen of India;

b. he has completed the age of 21 years;

c. he has obtained a degree in science, engineering or technology from any University established under law for the time being in force from any University in the territory of India or possesses such other equivalent qualifications as the Central Government may specify in this behalf, and, in addition,-

(i) is an advocate within the meaning of the Advocates Act, 1961; or

(ii) has passed the qualifying examination prescribed for the purpose; or

(iii) has, for a total period of not less than ten years, functioned either as an examiner or discharged the functions of the Controller under section 73 or both, but ceased to hold any such capacity at the time of making the application for registration;

d. he has paid such fee as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), a person who has been practicing as a patent agent before the commencement of the Patents (Amendment) Act, 2002 shall be entitled to continue to be or when required to be re-registered, as patent agent, on payment of the fees as may be prescribed`. The apart the intellectual Property Training Institute (IPTI) at Nagpur also provides training to patent agents.